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3:01-CV-02045 AT&T V. CITY OF CARLSBAD

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Attorneys for Plaintiff,
AT&T WIRELESS SERVICES OF CALIFORNIA LLC
D/B/A AT&T WIRELESS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY FAX

AT&T WIRELESS SERVICES OF) Case No. 01cv2045-JM(WM)
CALIFORNIA LLC, A DELAWARE)
LIMITED LIABILITY COMPANY, D/B/A) STIPULATION TO DISMISSAL OF
AT&T WIRELESS) COUNT IX WITH PREJUDICE AND
) NOTICE OF SATISFACTION AND
Plaintiff,) SETTLEMENT
vs.)
) Judge: Hon. Jeffrey T. Miller
THE CITY OF CARLSBAD,)
CALIFORNIA, <i>ET AL.</i> ,)
)
Defendants.)

Plaintiff AT&T Wireless Services of California, LLC, a Delaware Limited Liability Company, D/B/A AT&T Wireless and Defendants City of Carlsbad, California, *et al.*, pursuant to Fed. R. Civ. P. 41(a)(1), HEREBY STIPULATE AND AGREE to the dismissal with prejudice of Count IX of the Complaint and further notify the Court that the parties have entered into a settlement agreement with regard to this action, that all judgments have been satisfied, and that the action should, therefore, be marked settled and closed and removed from the Court's docket.

ENTERED ON

STIPULATION TO DISMISSAL OF COUNT IX WITH PREJUDICE

Case No. 01cv2045-JM(WM)

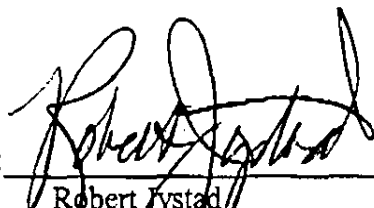
Cole, Raywid & Braverman, LLP
2381 Rosecrans Ave., Suite 110
El Segundo, CA 90245

- 1 1. On January 20, 2004, the Court entered its Order Granting ATTW Partial
- 2 Summary Judgment on ATTW's Count IX, 42 U.S.C. § 1983.
- 3 2. On February 13, 2004, the Court entered its Order Setting Briefing Schedule for
- 4 Plaintiff's Petition for Attorney's Fees and Costs; Referring Plaintiff's Petition for Attorney's
- 5 Fees and Costs to Magistrate for Report and Recommendation. The Parties have fully briefed
- 6 ATTW's Petition for Attorney's Fees and Costs and the Application is currently pending with
- 7 the Court.
- 8
- 9 3. The amount of the award of attorney's fees under Count IX is the only issue that
- 10 remains unresolved before this Court in this action.
- 11 4. The Parties, having entered into a settlement agreement resolving the matter,
- 12 hereby stipulate to the dismissal of Count IX with prejudice.
- 13 5. Further, Defendants have complied with the Court's Order Entering Judgment and
- 14 Granting Mandamus Relief entered on November 26, 2003 ("Judgment and Injunction"). On
- 15 November 25, 2003, the City issued the CUP, and on or about January 16, 2004, the City issued
- 16 the Building Permit for the Facility, and ATTW and the City Defendants agree that ATTW has
- 17 all authorizations necessary to construct and to operate the Facility. Under the terms of the
- 18 Parties' settlement agreement, Defendants have agreed to dismiss their appeal from this Court's
- 19 Judgment and Injunction and earlier Order granting Plaintiffs Partial Summary Judgment.
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6. All counts of the Complaint having either been dismissed adjudicated and satisfied, or settled, the parties hereby notify the Court that this action should be marked settled and closed.

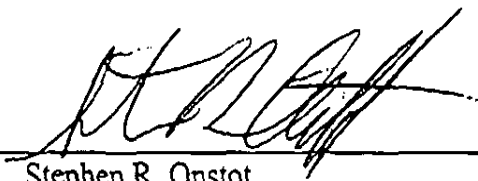
Respectfully submitted:

April 21, 2004

By: 
Robert Jystad
COLE, RAYWID & BRAVERMAN, LLP
2381 Rosecrans Avenue Suite 110
El Segundo, CA 90245

Attorneys for Plaintiff

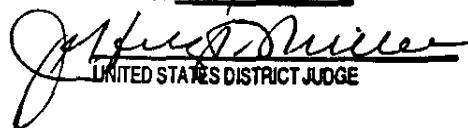
April 13, 2004

By: 
Stephen R. Onstot
BURKE, WILLIAMS & SORENSEN, LLP
611 West Sixth Street Suite 2500
Los Angeles, CA 90017

Attorneys for Defendants

IT IS SO ORDERED

DATED 4/30/04


UNITED STATES DISTRICT JUDGE

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PROOF OF SERVICE

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 2381 Rosecrans Ave., Suite 110, El Segundo, CA 90245.

On April 21, 2004, I served the foregoing document described as **STIPULATION TO STIPULATION OF DISMISSAL OF COUNT IX WITH PREJUDICE AND NOTICE OF SATISFACTION AND SETTLEMENT** on the interested parties in this action by placing a true copy thereof, addressed as follows:

Steve Onstot, Esq.
Burke, Williams & Sorensen, LLP
611 West Sixth Street
Suite 2500
Los Angeles, CA 90017

[X] **BY MAIL:** I placed true copies of the foregoing document in sealed envelopes addressed as stated on the above/attached service list. I placed such envelope, with postage thereon fully prepaid, for collection and mailing at Cole, Raywid & Braverman, LLP, El Segundo, California. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice the mail would be deposited with the U. S. Postal Service on that same day with postage thereon fully prepaid at El Segundo, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

[X] **BY FAX:** I served the foregoing document on the interested parties in this action by transmitting the above-referenced document to the above-mentioned recipient at the following telecopy number: 213-236-2700

[X] **(FEDERAL COURT)** I declare under penalty pursuant to the laws of the United States that the above is true and correct.

Executed on April 21, 2004, in El Segundo, California.

Lucy Nañez
Name


Signature